

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 251/MP/2015

- Subject : Regulatory Compliance application under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of the generating station during the FY 2014-15 in respect of Chamera-III Power Station.
- Date of hearing : 31.3.2016
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioner : NHPC Limited
- Respondents : Punjab State Power Corporation Limited and others.
- Parties present : Shri Naresh Bansal, NHPC
Shri Piyush Kumar, NHPC
Shri A.K. Pandey, NHPC
Shri S.K. Agarwal, Advocate, Rajasthan Discom
Shri S.P. Das, Advocate, Rajasthan Discom
Shri R.B. Sharma, Advocate, BRPL

Record of Proceedings

The representative of the petitioner submitted the present petition has been filed seeking recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of the petitioner during the financial year 2014-15 in respect of Chemera-III Hydro Generating Station as per Regulation 31 (6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (2014 Tariff Regulations). The representative of the petitioner further submitted as under:

- (a) Regulation 31 (6) of 2014 Tariff Regulations allows recovery of full energy charges on the basis of actual generation whereas Regulations 31 (4) and (5) of 2014 Tariff Regulations allows billing on the basis of scheduled energy. The present petition is based on scheduled energy and there is difference of about 14 million units in scheduled energy and actual energy.

(b) In case of new project, the generation needs to be monitored for 4 years and if it is continuously on the lower side, then the generator is required to be approach to CEA for review of design energy.

(c) The data on "Average Actual Inflows" for the year 2014-15 certified from CEA/CWC may take a long time, moreover the data from CWC may not be relevant as the flow gauges of CWC are at faraway locations from the generating station.

(d) NHPC has collected the rainfall data for the year 2014-15 from Metrological Department located around generating station. However, there is a trend in reducing of rainfall in the last year. Since the inflow river to the generating station is a snow fed river, the rainfall data may not be directly co-related to less inflows.

(e) The reconciliation statement of billing for the period 2014-15 indicating the energy scheduled, energy charges billed, the shortfall in recovery of energy charges to arrive at the amount of shortfall has already been submitted to the Commission.

(f) Planned and forced machine outage data is being submitted to CEA on regular basis for certification and the certificate of the outage data is awaited from CEA.

2. Learned counsel for BRPL submitted as under:

(a) The contention of the petitioner that the actual scheduled generation should be considered for recovery of energy charges rather than actual generation prescribed in Regulation 31 (6) of the 2014 Tariff Regulations is misleading as there is no contradiction between Regulation 31 (6) and Regulation 31 (4) of the 2014 Tariff Regulations.

(b) APTEL in its judgment dated 1.7.2014 in Appeal No. 169 of 2013 (GRIDCO V M/s Bhushan Power and Steel Limited and others) has held that the Commission has no power to add, substitute or delete any provision of the Regulation. Therefore, the petitioner's attempt to substitute actual scheduled generation against actual generation should not be allowed.

(c) As per Regulation 31 (6) of the 2014 Tariff Regulations, the treatment in the ECR is required to be given for the following year of energy shortfall. The petitioner has treated ECR in the same year (2014-15) in which the shortfall has been noted and not in the following year.

(d) Since AFC for the financial year 2014-15 is yet to be finalized by the Commission, ECR is subject to change.

3. After hearing the representative of the petitioner and learned counsel for BRPL, the Commission directed the petitioner to submit the following information latest by 29.4.2016 with an advance copy to the respondents:

(a) The claim of NHPC is based on the “Actual Inflow Data” measured by the petitioner itself at the generating station. Therefore, its certification by C.W.C is one of the conditions to prove that energy shortfall was due to reasons not attributable to the petitioner. The actual data certified by C.W.C be submitted.

(b) Planned and forced outage data (unit-wise and month-wise) during 2014-15 along with its co-relation with energy generation.

(c) In addition to certification of the outage data by C.E.A., data certified from NRLDC be submitted.

4. The Commission directed that due date of filing the information should be strictly complied with failing which the matter would be decided on the basis of the information already available on record.

5. Subject to above, the Commission reserved the order in the petition.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**